



The Commonwealth of Massachusetts

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

PROCEDURAL MEMORANDUM

TO: D.T.E. 01-70 Service List
(via E-mail and Regular Mail)

FROM: Jesse Reyes, Hearing Officer

RE: Request for Comments on Effect of Fibertech's Wholesale Tariff on this Proceeding

DATE: December 15, 2003

On November 10, 2003, Fiber Technologies Networks, L.L.C. ("Fibertech") issued a schedule of tariffs for intrastate wholesale telecommunications services, M.D.T.E. 3, pursuant to the Department of Telecommunications and Energy's ("Department") Clarification of Wholesale Tariffing Requirements (Aug. 12, 2003). The Department permitted the tariff to take effect on December 10, 2003. G.L. c. 159, § 19. The new wholesale tariffs may affect questions of law or fact material to the Department's review of Fibertech's motion for reconsideration and clarification of the Department's interlocutory order on Fibertech's motion for summary judgment and appeals from discovery rulings. Fiber Technologies Networks, L.L.C., Interlocutory Order, D.T.E. 01-70 (Dec. 24, 2002).

Therefore, I direct the parties to file comments on the effect of Fibertech's M.D.T.E. 3 on this proceeding by January 6, 2004. Parties should address, at a minimum, the wholesale tariff's effect on (1) whether Fibertech is a "licensee," and (2) whether Fibertech is "incorporated for the transmission of intelligence." Please contact Jesse Reyes (617) 305-3735 if you have any questions.